

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
ORDER

Application 27607 Permit 19328 LICENSE _____

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 19328 was issued to Patrick J. Garvey on September 27, 1984.
2. A petition for an Extension of Time in which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board (SWRCB) on July 18, 1997.
3. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 9 of the permit be amended to read:

Complete application of the water to the authorized use shall be made by December 31, 2007.

(0000009)

Dated: **NOVEMBER 24 1997**

for 
Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 19328

Application 27607 of Patrick J. Garvey

1899 West Zinfandel Lane, St. Helena, California 94574

filed on December 14, 1982, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Conn Creek

Tributary to:

Napa River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
Diversion to Offstream Storage South 58° West 2,240 feet from NE corner of Projected Section 23	NW¼ of NE¼	23	7N	5W	MD
Oakville Reservoir In	SW¼ of NE¼	23	7N	5W	MD

County of Napa

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Heat Protection						
Frost Protection						
Irrigation	NE¼ of NW¼	23	7N	5W	MD	20
	NW¼ of NE¼	23	7N	5W	MD	15
	SE¼ of NW¼	23	7N	5W	MD	15
	SW¼ of NE¼	23	7N	5W	MD	30
	SE¼ of NE¼	23	7N	5W	MD	8
	NW¼ of SE¼	23	7N	5W	MD	12
					Total	100

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 49 acre-feet per annum to be collected from December 1 of each year to May 15 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000005)

The maximum rate of diversion to offstream storage shall not exceed 2.5 cubic feet per second. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 1, 1986. — (0000008)

9. Complete application of the water to the authorized use shall be made by December 1, 1993. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses, prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) to installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action takes into account the public interest and is necessary to protect public trust uses. All such actions shall conform to the standard of reasonableness contained in Article X, Section 2 of the California Constitution. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

15. To the extent that water available for use under this permit is return flow, imported water, or wastewater, this permit shall not be construed as giving any assurance that such supply will continue. (0000025)

16. For the protection of fish and wildlife, permittee shall during the period: (A) from December 1 through February 29 bypass a minimum of 10 cubic feet per second, (B) from March 1 through May 15 bypass a minimum of 2 cubic feet per second. The total streamflow shall be bypassed whenever it is less than the designated amount. (0140060)

17. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flows required by the conditions of this permit. Said measuring device shall be properly maintained. (0060062)

18. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted until permittee has entered into a stream or lake alteration agreement with the Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of permittee. (0000063)

19. Diversion of water between March 15 and May 15 shall be subject to control under a water distribution program administered by the State Water Resources Control Board or by the Department of Water Resources at any time such a program is in effect at the project location.

- A. Diversion after March 15 is contingent upon participation in the water distribution program by the permittee.
- B. No diversion is allowed after March 15, except to replenish water stored prior to March 15, unless otherwise authorized by the water-master in charge of the distribution program.
- C. Prior to making diversions after March 15, permittee shall install and maintain a device, satisfactory to the watermaster, which is capable of measuring the instantaneous rate of diversion and the accumulative amount of water diverted during participation in the distribution program.
- D. Permittee's participation in any water distribution program required under the terms of this permit shall be evidenced by returning the information sheet distributed prior to the frost season and paying costs as apportioned at the end of the season.
- E. The water distribution program required under this permit may be revised periodically by the Board provided that the program shall be substantially consistent with terms of any water distribution program imposed on similarly situated users by the Napa County Superior Court. (0000085)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: SEPTEMBER 27 1984

STATE WATER RESOURCES CONTROL BOARD

Raymond Wash
Chief, Division of Water Rights